

# **EXHIBIT A**

## Councill, Stephen D.

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**From:** Januszewski, David G. <djanuszewski@cahill.com>  
**Sent:** Tuesday, June 10, 2014 3:55 PM  
**To:** Councill, Stephen D.  
**Cc:** Gurney, Brent; Jeannie S. Rhee - Wilmer Cutler Pickering Hale and Dorr (jeannie.rhee@wilmerhale.com); Major, Amanda; Emily Troncoso (emily.troncoso@wilmerhale.com); Tonolli, Sean P.  
**Subject:** RE: Michael Rand trial - subpoenas to Beazer, Alston, and Navigant

Steve,

In light of the overarching fundamental difference of views as to the propriety of the subpoenas you have served, we will be filing a motion. I don't think it will be productive to have a call tomorrow morning along the lines you are suggesting. If, after you have a chance to review and consider our motion, you want to talk further, we will be happy to do so.

David

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**From:** Councill, Stephen D. [mailto:SCouncill@rh-law.com]  
**Sent:** Monday, June 09, 2014 3:27 PM  
**To:** Tonolli, Sean P.  
**Cc:** Gurney, Brent; Jeannie S. Rhee - Wilmer Cutler Pickering Hale and Dorr (jeannie.rhee@wilmerhale.com); Major, Amanda; Emily Troncoso (emily.troncoso@wilmerhale.com); Januszewski, David G.  
**Subject:** RE: Michael Rand trial - subpoenas to Beazer, Alston, and Navigant

Sean,

Our position remains, as it was on Friday, that we would be glad to confer in good faith in an effort to resolve any concerns you have about the scope of our subpoena. If you'll let us know what concerns you have about each request, we will try to find ways to resolve those concerns. It seems like an inefficient use of the court's time to file a motion to quash without first talking through each request to see if any concerns you have might be resolved. We'll talk to you Wednesday morning, and we can also talk before then if you prefer.

Steve

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**From:** Tonolli, Sean P. [mailto:STonolli@cahill.com]  
**Sent:** Monday, June 09, 2014 1:34 PM  
**To:** Councill, Stephen D.  
**Cc:** Januszewski, David G.  
**Subject:** RE: Michael Rand trial - subpoenas to Beazer, Alston, and Navigant

Steve,

Thanks for taking the time to talk on Friday. Hope you enjoyed the weekend.

In thinking about our conversation about your subpoenas, I think where we parted ways procedurally speaking is in our differing views of what the local rules require before a motion is filed. Certainly Local Civil Rule 7.1(B) requires a certification that the parties have "attempted in good faith to resolve areas of disagreement and set forth which issues remain unresolved." But Local Criminal Rule 47.1(B) does not contain the same requirement. Rather it requires a motion only to include "a certification that the moving party has conferred with opposing counsel and state opposing counsel's position on the relief sought[.]"

We've satisfied that requirement. I explained our view that your subpoenas are not proper under Rule 17 and that we intend to move to quash. I understand that you see things differently and oppose our motion. We will of course represent that to the Court when we file, which may be as early as tomorrow.

As we talked about Friday, we would welcome proposals from you about how you might narrow future document and custodian subpoenas. To that end, we're still available at 10am on Wednesday to talk. Since I'll be in DC and David will be in New York, I've set up a conference call number for us all to use. Feel free to invite any of your co-counsel to join. The dial in is 866-639-3238 and the password is 202-862-8946.

Take care,  
Sean

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